

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the First Amended  
Accusation Against:**

**CLEVELAND ENMON, M.D.**

**File No. 02-2009-201510**

**Physician's and Surgeon's  
Certificate No. A 93821**

**Respondent.**

**DECISION**

The Proposed Decision of Ann Elizabeth Sarli, Administrative Law Judge, dated December 14, 2011, in Sacramento, is attached hereto. Said decision is hereby amended, pursuant to Government Code Section 11517 (c)(2)(C) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. Page 1 - the date the First Amended Accusation was filed is corrected to read "March 2, 2011."

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 17, 2012.

IT IS SO ORDERED January 20, 2012.

**MEDICAL BOARD OF CALIFORNIA**

By: Shelton Duruisseau  
Shelton Duruisseau, Ph.D., Chair  
Panel A

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the First Amended  
Accusation Against:

CLEVELAND ENMON, M.D.  
Decatur, Georgia

Physician's and Surgeon's Certificate No.  
A 93821

Respondent.

Case No. 02-2009-201510

OAH No. 2011050405

**PROPOSED DECISION**

This matter was heard before Administrative Law Judge Ann Elizabeth Sarli, Medical Quality Hearing Panel, Office of Administrative Hearings, on November 14, 2011, in Sacramento California.

Robert C. Miller, Deputy Attorney General, represented complainant.

Cleveland Enmon, M.D., represented himself.

Evidence was presented. The record was closed and the matter submitted for decision on November 14, 2011.

**PROCEDURAL FINDINGS**

1. On January 20, 2006, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 93821 to Cleveland Enmon M.D. (respondent). Respondent's certificate expired on July 31, 2011, and as of the date of the hearing had not been renewed.

2. On March 2, 2001, Linda K. Whitney, Executive Director, Medical Board of California (Board) made and filed the First Amended Accusation (Accusation), in her official capacity. The Accusation alleges that respondent was dishonest on two applications for employment in that he did not reveal a criminal conviction he had sustained for reckless driving-alcohol related. The Accusation also alleges that

respondent's misdemeanor criminal conviction should be considered in determining the degree of discipline imposed on respondent for the dishonesty allegations.

3. Respondent timely filed a Notice of Defense and Request for Hearing. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

## FACTUAL FINDINGS

1. On October 31, 2006, in the Los Angeles Superior Court, respondent was convicted on a plea of nolo contendere of a violation of Vehicle Code section 23103 A (reckless driving-alcohol-related), a misdemeanor. Respondent was sentenced to serve three years of summary probation. He was ordered to pay restitution and fines in the amount of \$1,366 and to complete a three-month alcohol and drug education counseling program. He was also ordered not to drive a motor vehicle without a valid California driver's license.

2. Respondent's conviction arose from his conduct on July 1, 2006, when he was observed by a police officer driving in a reckless manner in Hermosa Beach. Respondent was driving northbound on Hermosa Avenue in the number two lane, approaching 14th. Street. Without signaling, he swerved around a taxicab that was picking up a fare. He then turned right onto 14th. Street against a red light without stopping and swerved around another taxi that was parked against the south curb line. When officers pulled respondent over, they suspected that he was under the influence of alcohol and asked him to submit to a blood or breath test. He did not respond to their requests. He was arrested and was charged with driving under the influence of alcohol/ drugs and driving with a suspended license. On October 31, 2006, respondent pled nolo contendere to reckless driving. The court accepted the plea and noted: "The court accepts prosecutor's statement that alcohol/drugs were involved in the incident."

3. Respondent represented himself in the criminal proceeding and understood that he had sustained a misdemeanor criminal conviction.

4. On October 24, 2007, respondent submitted an Application for Locum Tenens hospital privileges to St. Joseph's Medical Center, California. Section 16 of the application set forth a series of questions regarding licensure, privileging, memberships and other matters which the applicant was required to disclose. Section 16 provided in pertinent part: "If the answer to any of the following questions is 'yes', or if you are unsure how to answer any question or need to explain your answer please give full and objective statement of the details on separate sheet of paper. In all instances, provide the relevant dates..." Section 16, question L asked: "Have you ever been charged or convicted of a felony or misdemeanor (other than minor traffic offense)? If yes, provide an objective and complete statement of the details." Respondent checked "No" in response to this question and provided no information about his criminal conviction. This answer was untruthful in

that respondent had been convicted of a violation of Vehicle Code section 23103 A, a misdemeanor.

5. The St. Joseph's application contained the statement: "I have reviewed the information contained in and attached to this application, and I hereby verify that this information is complete and accurate to the best of my knowledge, that it is submitted in good faith ...". Respondent signed the application on October 23, 2007.

6. On June 9, 2009, respondent submitted a California Participating Physician Application for privileges at Memorial Hospital of Gardenia, California. Section XVI of the application contained "Attestation Questions" which required the applicant to answer "yes" or "no" and, if the answer was "yes", the applicant was to provide full details on a separate sheet of paper. Section XVI question H asked: "Have you ever been convicted of any crime (other than a minor traffic violation)?" Respondent checked the "No" box and provided no information about his criminal conviction. This answer was untruthful in that respondent had been convicted of a violation of Vehicle Code section 23103 A, a misdemeanor.

7. The Memorial Hospital of Gardenia application contained the following attestation: "I hereby affirm that the information submitted in this Section XVI, Attestation Questions, and any addenda thereto is true, current, correct, and complete to the best of my knowledge and belief and is furnished in good faith." Respondent signed the application on June 8, 2009.

#### *Respondent's Defenses*

8. Respondent testified at hearing that the "credentialing people at the hospitals" knew about his criminal conviction and advised him to fill out the applications as he did. He testified that the credentialing people regarded the criminal conviction as a minor traffic violation.

9. Respondent testified that he was working for temporary agency when he was recruited by the APEX Group to work at St. Joseph's. He had many interviews with Dr. Buys, a principal with the group and with Michael Herreirs of the group before he was hired. During these interviews, he told them about his conviction. He testified that both St. Joseph's and Memorial Hospital of Gardenia did background checks before he was hired and he is "unaware how I was deliberately dishonest" if they did background checks. Respondent also argued that he does not understand how the Board has authority to act in an employment matter, and presented evidence that he was terminated from his position at Memorial Hospital of Gardenia because the Board had suspended his license to practice and not because of any dishonesty in his application.

10. Respondent's vague testimony that the hospitals knew about his criminal conviction when he submitted his applications was not persuasive. Moreover, his testimony was impeached by the Board's investigator who spoke with the chief counsel of Memorial Hospital of Gardenia and with Dr. Buys and confirmed that they were unaware of respondent's criminal conviction.

11. At hearing, respondent was invited to give evidence regarding rehabilitation. Respondent replied only that any suggestion that he had an alcohol problem was "ridiculous." He maintained that he was "confused" and needed "clarity" on how misconduct could have been dishonest or within the regulatory purview of the Board.

### LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 2427, respondent may renew his expired license. Accordingly, the Board has jurisdiction to discipline respondent's license during the renewal period.

2. Business and Professions Code section 2234, subdivision (c), states:

The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

¶ ...¶

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

¶ ...¶

3. The standard of proof which must be met to establish the charging allegations is "clear and convincing" evidence. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853). The burden rests with complainant to offer proof that is clear, explicit and unequivocal-so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

4. As set forth in the Factual Findings, it was established by clear and convincing evidence that respondent committed an act of unprofessional conduct in violation of Business and Professions Code section 2234. Respondent was dishonest in his application for privileges at St. Joseph's Medical Center, California, an act that was substantially related to the qualifications, functions and duties of a physician and surgeon. Accordingly, cause exists to discipline respondent's certificate.

5. As set forth in the Factual Findings, it was established by clear and convincing evidence that respondent committed a second act of unprofessional conduct in violation of Business and Professions Code section 2234. Respondent was dishonest in his application for privileges at Memorial Hospital Gardenia, an act that was substantially related to the qualifications, functions and duties of a physician and surgeon. Accordingly, cause exists to discipline respondent's certificate.

6. As set forth in the Factual Findings, respondent denied he had been dishonest and presented no evidence of rehabilitation. Evidence that respondent had sustained a criminal conviction for reckless driving with alcohol was considered when weighing the degree of discipline to be imposed. Respondent's two acts of dishonesty and his failure to acknowledge the dishonesty indicate that he should not be permitted unfettered practice. In order to protect the public, respondent's practice should be subject to a period of probationary monitoring, with terms and conditions designed to encourage honest and ethical professional conduct.<sup>1</sup>

## ORDER

Physician's and Surgeon's Certificate No. A 93821 issued to respondent Cleveland Enmon, M.D. is revoked pursuant to Legal Conclusions 4 and 5, separately and for each of them. However, revocation is stayed and respondent is placed on probation for five (5) years upon the following terms and conditions.

### **Actual Suspension**

As part of probation, respondent is suspended from the practice of medicine for 60 days beginning the sixteenth (16th) day after the effective date of this decision.

### **Ethics Course**

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole

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<sup>1</sup> Complainant argued that in addition to the standard terms and conditions of probation, respondent should undergo psychological and medical evaluations. The Accusation does not charge respondent with any unprofessional conduct that reasonably could have been attributed to medical or psychiatric problems. Respondent's dishonesty arose from pecuniary interest not a medical or psychiatric issue. Accordingly, there is no factual basis to impose medical or psychiatric examinations as conditions of probation.

discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

### **Notification**

Prior to engaging in the practice of medicine the respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

### **Supervision of Physician Assistants**

During probation, respondent is prohibited from supervising physician assistants.

### **Obey All Laws**

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

### **Quarterly Declarations**

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

### **Probation Unit Compliance**

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of respondent's business and residence

addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee.

Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

### **Interview with the Board or its Designee**

Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

### **Residing or Practicing Out-of-State**

In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case



the two year period shall begin on the date probation is completed or terminated in that state.

### **Failure to Practice Medicine - California Resident**

In the event respondent resides in the State of California and for any reason respondent stops practicing medicine in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

### **Completion of Probation**

Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

### **Violation of Probation**

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.


### **License Surrender**

Following the effective date of this Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re- applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

### **Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

Dated: December 14, 2011

  
\_\_\_\_\_  
ANN ELIZABETH SARLI  
Administrative Law Judge  
Medical Quality Hearing Panel  
Office of Administrative Hearings  
State of California

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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MARCH 2 2011  
BY: K. MONTALBANO ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 02-2009-201510

13 **CLEVELAND ENMON, M.D.**  
4527 Yorkdale Drive  
Decatur, Georgia 30035

**FIRST AMENDED ACCUSATION**

14 Physician's and Surgeon's  
15 Certificate No. A93821

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) brings this Amended Accusation solely in her  
21 official capacity as the Executive Director of the Medical Board of California, Department of  
22 Consumer Affairs.

23 2. On or about January 20, 2006, the Medical Board of California issued Physician's  
24 and Surgeon's Certificate No. A93821, to Cleveland Enmon, M.D. (Respondent). Said certificate  
25 is valid and will expire on July 31, 2011, unless renewed.

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## JURISDICTION

3. This Amended Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division<sup>1</sup>, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the division.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.

(4) Be publicly reprimanded by the division.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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<sup>1</sup> California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.



1 application included question number 15 (L) which reads: "Have you ever been charged or  
2 convicted of a felony or misdemeanor (other than minor traffic offences)?" Respondent checked,  
3 "No" to that question even though he had been convicted on October 31, 2006, of a violation of  
4 Vehicle Code section 23103, alcohol related reckless driving, a misdemeanor.

5 **DISCIPLINE CONSIDERATIONS**

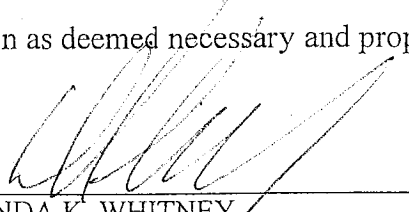
6 10. To determine the degree of discipline, if any, to be imposed on Respondent,  
7 Complainant alleges that on or about October 31, 2006, in a prior criminal proceeding entitled,  
8 *People v. Cleveland James Enmon*, in Los Angeles Superior Court, Case Number 6SY05527,  
9 Respondent was convicted for violating Vehicle Code section 23103, a misdemeanor.  
10 Respondent was sentenced to three (3) years probation; ordered to pay restitution and fines in the  
11 amount of \$1,366.00; complete three (3) months alcohol and drug education counseling program;  
12 and ordered not to drive a motor vehicle without a valid California driver's license. The record of  
13 the criminal proceeding is incorporated as if fully set forth.

14 **PRAYER**

15 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Medical Board of California issue a decision:

- 17 1. Revoking or suspending Physician's and Surgeon's Certificate No. A93821, issued to  
18 Cleveland Enmon, M.D.;
- 19 2. Revoking, suspending or denying approval of Cleveland Enmon, M.D.'s authority to  
20 supervise physician assistants, pursuant to section 3527 of the Code;
- 21 3. Ordering Cleveland Enmon, M.D. to pay the costs of probation monitoring if  
22 probation is imposed; and,
- 23 4. Taking such other and further action as deemed necessary and proper.
- 24

25 DATED: March 2, 2011

  
LINDA K. WHITNEY  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant